STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

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May 20, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-45, CC Docket No. 97-160, DA98-715
Comments of APUC
Motion to Accept Late-Filing

Dear Ms. Salas:

Enclosed are an original and five copies of the Comments of the Alaska Public Utilities Commission in response to Public Notice DA98-715, together with a Motion to Accept Late-Filed Comments.

Sincerely,

Sam Cotten

Sam Cotten, Chairman

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	CC Docket No. 97-160
Universal Service	)	DA 98-715

Motion to Accept Late-Filed Comments

Pursuant to Section 1.46(b) and 1.415(d) and (e) of the Commission rules, the Alaska Public Utilities Commission (APUC) requests the Commission accept these late field comments as part of the record in CC Docket No. 96-45. The APUC did not receive all of the proposals filed in response to DA98-715 until late on May 6, 1998, and the APUC Commissioners did not have an opportunity to complete a review of this matter until the week of May 18, 1998. As such comments in response to DA98-715 could not be submitted by the May 15, 1998, deadline.

Respectfully submitted,

By: ______________________
Commissioner Sam Cotten
Chairman of the Alaska
Public Utilities Commission

May 20, 1998

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	CC Docket No. 97-160
Universal Service	)	DA 98-715

Comments of the

Alaska Public Utilities Commission

Date: May 20, 1998

Sam Cotten, Chairman
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 300
Anchorage, Alaska 99501

SUMMARY

The Alaska Public Utilities Commission (APUC) believes the national goal of universal service is best achieved by a nationwide fund as opposed to placing the primary funding obligation on fifty separate state funds. The main responsibility to support the nationwide goal of universal service should rest with the federal system. If the federal system pays the total costs of universal service, then it may be fair and reasonable to assess both interstate and intrastate revenues for contribution to the fund.

If the federal system only pays a portion of the costs of the federal universal service program, with the residual to be paid by state mechanisms, then there should be a cap on the amount the federal system assumes state consumers would pay. The APUC also supports institution of a hold harmless clause for rural, and possibly other carriers. Any funds generated by the universal service mechanism should be employed to reduce local rates and not interstate access rates.

Of the proposals filed, the APUC opposes attempts to eliminate the distinction between rural and non-rural companies and proposals that ignore the low economies of scale experienced by the smallest local carriers. Rural companies should remain under the current system until

further review.

If a proposal based on a forward looking economic cost (FLEC) model is ultimately chosen, then the Commission should first adopt a FLEC model before attempting to set the benchmarks and state/federal distribution factors (if any). To do otherwise risks adoption of a system which may not achieve the policy goals set by the Commission as FLEC model results remain uncertain. If benchmarks and state distribution factors are ultimately selected, the choices should be influenced by the effect on local rates and a state's ability to internally fund universal service.

The Commission should reject the Time Warner Communications Holding, Inc. proposal to eliminate funding for Census Block Groups based on average median income. This proposal is administratively burdensome, impractical, and unfair to consumers.

As a last point, the Commission should release for public comment a detailed description of any proposal prior to adoption.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	CC Docket No. 97-160
Universal Service	)	DA 98-715

Comments of the
Alaska Public Utilities Commission

The Alaska Public Utilities Commission (APUC) welcomes the opportunity to respond to Public Notice DA98-715, released by the Federal Communications Commission (Commission) on April 15, 1998. This Public Notice requested proposals for modifying the Commission's universal service policies.

The APUC strongly supports efforts to replace the methodology adopted through the Commission *Universal Service Order*[1] where only 25% of the total support needed for universal service would be provided through federal mechanisms. As discussed in past comments filed before the Commission, the APUC believes the 25% funding level if applied to Alaska rural companies, could ultimately result

[1] CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997).

in large increases to local rates, compromising universal service.

I. Universal service is best achieved by a nationwide fund instead of fifty separate state funds.

The APUC supports the comments of John Staurulakis, Inc. (JSI), and Sprint that there should be a single national fund with the primary responsibility for ensuring universal service. First, universal service is a national policy benefitting all consumers. As such it is reasonable for the responsibility for universal service to be shared nationwide under a nationwide program. It is unreasonable for individual states to bear 75% of the burden for supporting the national universal service program.

Second, if states must internally fund a large portion of the costs of universal service; rural, high-cost, less densely populated states would unfairly shoulder more burden than low-cost, urban states. As illustrated by JSI, a nationwide universal service fund assessed at a nationwide rate of 4% is more reasonable and fair than a program requiring a 35% assessment in a high-cost state but only a 2% assessment in a low-cost state.

II. If the federal program supports the total costs of universal service, then it may be reasonable to asses both interstate and intrastate revenues for contribution towards the fund.

The APUC conditionally supports assessing universal service costs on both state and interstate revenues as this will lead to the largest assessment base; making it more likely there will be sufficient funds to run the program. If intrastate revenues are assessed by the Commission, then the federal fund should provide for the total costs of universal service. To do otherwise would unfairly lead intrastate revenues to be assessed twice for the costs of universal service; once through the federal system and again as each state attempts to recover its portion of the costs of the federal universal service system.

III. If states are required to internally fund a portion of the federal universal service program, there should be a cap on the portion assigned for state recovery.

Many of the proposals under review by the Commission would divide the costs of universal service between the states and the Commission. For example, the Ad hoc proposal would assign state responsibility based on the state's average costs compared to the nationwide average costs. As another example, the Commission's current universal service plan is to assign 75% of the costs of universal service to the states.

If states are required to support the federal universal service program, then there should be a cap on the maximum assessment to a state. This cap should take into consideration the effect on local rates and whether certain areas of a state should not pay assessment given unusually low penetration rates, low income or other relevant factors. Such a cap would protect states from paying unfairly high per capita contribution towards the federal universal service program as a result of the state's high-costs, low population density, or limited urban revenue base.

A cap is a needed addition to the proposals under review, including the Ad Hoc proposal. In theory under the Ad Hoc proposal, states would receive federal support when their average costs were above the nationwide average, with the state's urban areas responsible for funding the residual to ensure universal service. The total federal fund would be reduced as states would now bear a portion of the responsibility for providing support in their high cost areas.

Absent a cap, it is not clear that this proposal is necessarily fair to all states. There is no check that the cost burden shifted to a state through the averaging process is of a reasonable magnitude and fair to urban customers. There is no assurance that urban areas between states would see comparable universal service assessments.

The APUC cannot predict how the Ad Hoc's averaging process will affect Alaska as no current FLEC study accurately predicts Alaska costs. We remain concerned however that the Ad Hoc proposal might result in an unfair distribution of costs between states.

Alaska is comprised of primarily rural high-cost areas with only one city over 50,000 people, Anchorage, Alaska. Anchorage is a relatively small city,[2] with telecommunication costs much lower than that for rural areas of Alaska. Under the Ad Hoc proposal, Anchorage would likely be the primary source for internally funding Alaska's rural areas, to the extent funding was not provided through federal sources.

In an attempt to gauge how the Ad Hoc's averaging provision would affect Alaska, the APUC applied the averaging approach to local loop costs. If the existing Universal Service Fund local loop support were calculated based on the averaging technique proposed under the Ad Hoc proposal, instead of the company specific way it is done today, loop support in Alaska would be reduced from its current level of $91/loop/year to about $64/loop/year, with the state expected to internally fund the remaining

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[2]As of the 1990 Census, Anchorage had 226,338 people.

$27/loop. If the state's share were to be recovered from the Anchorage area, Anchorage's rates could increase by over 40%, absent the hold harmless provision of the plan. The APUC doubts low-cost states with extensive urban areas would see similar increases.

The APUC believes it critical to incorporate the concept of a cap into the Ad Hoc plan and any other plan that assesses costs of universal service to the states.

To some extent the Ad Hoc proposal's hold harmless clause might alleviate concerns that rates will increase in Alaska. The Ad Hoc proposal however, suggests the hold harmless clause may be temporary in nature. The APUC supports a hold harmless clause as applied to rural and possibly other carriers given the uncertainty of adequate funding under the various proposals filed to date.

IV. The Commission should reject aspects of proposals designed only to minimize the fund.

The Telecommunications Act of 1996 at Section 254(b)(5) states there should be "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." Proposal features specifically designed to reduce the fund size should be rejected as violating the sufficiency requirements of the Act.[3]

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[3]For example, the Ad Hoc proposal uses national average costs as the basis of assessing comparability

V. Any increases to universal service funding should be employed to reduce local rates and not interstate access charges.

The APUC opposes Sprint's proposal that incumbent carriers receiving more universal service funding under the new system than the current system should offset the increase, dollar for dollar, through decreased access charges. First, Sprint's proposal is contrary to the sufficient funding requirement of the Act at Section 254(b)(5) as universal service funds supporting local rates would be limited to existing levels. There is no evidence that the existing support levels are sufficient. Second, Sprint's proposal would effectively eliminate any opportunity for states with low penetration rates and high local rates from applying additional federal funding to promote universal local service. As such the proposal would violate the requirement at Section 254(b)(1) that quality services should be available at just, reasonable, and affordable rates. Third, using universal service fund

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between rural and urban rates. The Ad Hoc proposal also notes that national average costs are reported to be about 50% above urban average costs. If this is true, then employing national costs may not necessarily ensure sufficient funding, and comparable urban/rural rates, but it will reduce the fund size. See CC 96-45, High Cost Support: An Alternative Distribution Proposal, Prepared by the NARUC Ad Hoc Working Group on Funding for High Cost Areas, at p. 16, April 27, 1998.

increases to offset access rates is preferentially discriminatory to long distance companies. In effect all carriers are required to contribute to the fund, but any increases to the fund are funneled solely to interstate interexchange carriers.

VI. The Commission should maintain the distinction between rural and non-rural areas. Rural companies should remain under the current system at this time.

A number of the filed proposals would apply a single forward looking economic cost (FLEC) model or common universal service mechanism to both rural and non-rural areas within a state. The APUC strongly opposes such a "one size fits all" approach. Applying a single model or common mechanism to all carriers is premature given there is no assurance a single model or mechanism would accurately predict costs and needed support levels for both non-rural and rural companies. For example, existing FLEC models under review best reflect non-rural company costs and were not designed to accurately represent small, rural company cost characteristics.

Second, the current FLEC studies under consideration were designed based on costs for the contiguous United States (CONUS) and do not represent Alaska rural costs. None of the cost models under consideration adequately represent factors affecting costs of service in rural Alaska, such as climate characteristics, construction practices under Arctic conditions, lack of road access to exchanges, low economies of scale in certain exchanges, and remoteness of exchanges. Applying a model designed to predict typical forward looking costs in CONUS would likely grossly underestimate costs in rural Alaska.

The Commission previously recognized the inappropriateness of applying FLEC models to rural areas, including those in Alaska, absent full review. Specifically, while non-rural companies were to move in the short term towards a FLEC approach, such would not occur in rural areas absent full and complete review to ensure compliance with the Act:

> ...rural companies will begin receiving support pursuant to sufficient validation that forward-looking support mechanisms for rural carriers produce results that are sufficient and predictable.[4]

The APUC strongly urges the Commission to maintain its existing plan not to blindly and prematurely apply a non-rural FLEC study or methodology to all rural areas. Any proposal adopted by the Commission should take into consideration the differing cost characteristics between rural and non-rural carriers. Similarly any mechanism

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[4]<u>Report & Order</u>, at 252.

adopted by the Commission should recognize the low economies of scale associated with providing services to small villages and cities in rural areas. Cost models and support mechanisms designed for non-rural companies may not adequately represent the costs for the smallest LECs in the nation. Rural companies should remain under the current system at this time.

VII. The Commission should not adopt benchmarks or state assessment factors without first determining the FLEC model. Benchmarks and state/federal distribution factors should be based on policy goals.

Commentors have suggested various benchmarks and state/federal distribution ratios to apply to a FLEC model output to develop the universal service support amounts. The Commission should not adopt any benchmark or state assessment factor until the FLEC model has been selected. As the FLEC model features are still under review, no one can readily predict the results and affects on policy goals of any of the conceptual benchmarks and state/federal distribution ratios discussed to date. It is therefore premature to select which benchmarks and distribution ratios should be employed until the FLEC models have been fully developed and their results known.

VIII. The Commission should reject Time Warner proposal to eliminate universal service support to areas with higher household income.

Time Warner Communications Holding, Inc. (Time Warner) proposes to eliminate universal service funding for Census Block Groups (CBGs) with average median incomes above a threshold, for example the 70th percentile. The APUC opposes eliminating funding based solely on income as the plan is impractical and results in arbitrary and unfair treatment to the consumer. First, a program that considers income effects without cost of living and similar demographic factors is one sided. For example, in Anchorage and in Fairbanks, Alaska, while the salary and wage levels are above the national average, so is the cost of living, and to a greater extent.[5] To consider income without also considering cost of living is unfair to high-cost states.

Second, under the Time Warner proposal to prevent cross subsidization between funded and non-funded CBGs, states may need to price local service at the CBG level. Pricing at the CBG level will lead to customer confusion and dissatisfaction as the public attempts to understand why neighbors have substantially different rates merely

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[5]BTA Economic Research Institute, The 1995 Geographic Reference Report, at p. 10, 79, USA Library of Congress ISSN 1061-7469.

because they reside in different CBGs. In addition, the Time Warner proposal does not address how its plan will be applied to business customers. Keeping records to determine which customers receive a subsidized rate and which do not would be administratively burdensome.

Third, the Time Warner "safety net" for lower income customers in states with cost-based rates would likely be ineffective and administratively burdensome. Under the safety net, a customer may obtain a subsidized rate by providing the fund administrator with a copy of his or her most recent federal or state income tax return. As many customers will be unwilling to release federal and state income tax information for personal or other reasons, there is no assurance the safety net will work as intended. In addition, it would be administratively burdensome to review those returns actually provided and keep records on an individual customer basis as to the rate charged and subsidy provided.

Last, to be fair, if high-income CBGs are to receive no support than additional support should be provided to CBGs with unusually low income.

In summary the APUC opposes the Time Warner proposal.

IX. Variable and other multiple benchmark proposals are better than the existing Commission 25%/75% plan. Any variable benchmarks should consider effects on local rates.

Under the Commission's existing system, non-rural companies would receive support based on the difference between a FLEC study and a single nationwide benchmark, with responsibility for support divided between state and federal jurisdictions at a 25%/75% split. One suggested alternate approach has been to apply a variable benchmark to non-rural areas with the benchmark adjusted based on a state's ability to internally support and fund universal service. In another approach, US West and others suggest dual benchmarks, with federal responsibility to fund universal service at 100% above the higher benchmark. The APUC believes that either of these approaches is superior to the Commission's current 25%/75% plan as both improve the likelihood that states with limited resources will not be unduly assessed for the costs of universal service.

If a state-by-state benchmark is adopted, the APUC suggests that one of the factors to be considered is the effect on local rates. For example, it has been suggested that the ratio of intrastate to total revenues be used to establish the benchmark for each state. Such a ratio alone may be insufficient as it provides no gauge of whether the intrastate revenues and customer base within a state are sufficiently large to support any specific level of universal service support. The APUC therefore proposes that if a variable benchmark is selected, it be based in part on the impact on local rates. As previously stated, the APUC also proposes a cap or maximum assessment rate per capita for state contributions.

X. Options proposing a variable state/federal distribution percentage are better than the existing Commission 25%/75% plan. Such variable support options should consider the effect on local rates.

Various commentors have also proposed that the Commission 25%/75% plan be modified such that the state/federal obligation for high-cost funding would vary from state-to-state based on a state's ability to internally support and fund universal service. The APUC believes that this variable support approach is superior to the Commission's current 25%/75% plan as it improves the likelihood that states with limited resources will not be unduly assessed for the costs of universal service.

If a variable state/federal percentage is adopted, the APUC suggests the percentage be set taking into consideration the affect on local rates. For example, it has been suggested that the ratio of intrastate to total revenues be used to establish variable percentages applied to each states. Such a ratio alone may be insufficient as it provides no gauge of whether the intrastate revenues and customer base within a state are sufficiently large to support any specific level of universal service support. The APUC therefore proposes that if a variable benchmark is selected, that it include consideration of the effect on local rates. A per capita cap on state contribution should also be considered.

XI. Prior to adoption of any plan, the Commission should submit the plan for further comment.

While the APUC appreciates the opportunity to comment on these proposals, the schedule for filing comments and reply comments stated in the Public Notice provides insufficient time for response. For example, 45% of the filings received by the APUC in response to the Public Notice were received between May 4 and May 6, 1998. A complete review of all the proposals as well as a decision on how to respond could not be completed and delivered to the Commission by the May 15, 1998, comment filing deadline. The APUC could only file limited comments given the time constraints of this proceeding. Other commentors ability to response to the Public Notice may also have been compromised by the short schedule. Second, many of the proposals filed lack critical details necessary for full evaluation of their impact on the public.

As a partial remedy to these problems, the Commission should seek further comment on any proposal likely to be adopted once the details of the proposal are better defined.

Conclusion

The Alaska Public Utilities Commission (APUC) believes that the national goal of universal service is best achieved by a nationwide fund as opposed to fifty separate state funds. The federal mechanism should take primary responsibility for funding universal service. Negative impacts on states should be minimized. The universal service mechanism should not result in material rate increases in high-cost states.

RESPECTFULLY SUBMITTED this 20th day of May, 1998.

By: Commissioner Sam Cotten
Chairman of the Alaska Public
Utilities Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Federal-State Joint Board on Universal Service	))))	CC Docket No. 96-45

CERTIFICATION OF MAILING

I, Barbara J. Miller, certify as follows:

I am an Administrative Supervisor in the offices of the Alaska Public Utilities Commission, 1016 West Sixth Avenue, Suite 400, Anchorage, Alaska 99501.

On May 21, 1998, I mailed copies of

MOTION TO ACCEPT LATE-FILED COMMENTS
AND
COMMENTS OF THE ALASKA PUBLIC UTILITIES COMMISSION
(Issued May 20, 1998)

in the proceeding identified above to the persons indicated on the attached service list.

DATED at Anchorage, Alaska, this 21st day of May, 1998.

Barbara J Miller

Inasmuch as this filing includes mailings to all known interested persons and the list is 21 pages in length, in order to minimize copying and mailing costs, the service list herein is not included as part of this mailing. That list is a public record on file with the Commission. Persons interested in obtaining the list should contact the Commission at 1016 West Sixth Avenue, Suite 400, Anchorage, Alaska, 99501 or by calling 1-907-276-6222.

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